

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CAROL HOTZE HERMANN,

Plaintiff,

v.

DAVID SHAPLEIGH, et al,

Defendant.

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Cause No. 4:20CR01216 RLW

**DEFENDANT DAVID SHAPLEIGH'S
ANSWER AND DEFENSES TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

Comes now Defendant, David Shapleigh ("Defendant"), by and through its undersigned counsel, and for his Answer and Defenses to Plaintiff's First Amended Complaint states as follows:

I. Introduction

1. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

2. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

3. This Defendant denies the allegations contained in paragraph 3.

4. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof. However, without being provided with specific dates of the alleged incidents, Defendant will admit that he was a resident of the State of Missouri throughout the entire years of 1984-1985.

5. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

6. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

7. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

8. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

9. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

10. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

11. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

12. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

13. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

14. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

15. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

16. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

17. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

18. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

19. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

20. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

21. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

22. This Defendant denies the allegations contained in paragraph 22, including, specifically subparagraphs (a) through (o).

23. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

24. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

25. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

26. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

27. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

28. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

29. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

30. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

31. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

32. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

33. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

34. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

35. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

36. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

37. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

38. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

39. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

40. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

41. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

42. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

43. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

44. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

45. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

46. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

47. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

48. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

49. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

50. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

51. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

52. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

53. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

54. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

55. The allegations contained in paragraph 53 state a legal conclusion. This Defendant denies said allegations and holds Plaintiff to strict proof thereof. For further Answer, the law cited by this Plaintiff does not apply to this Defendant, under these circumstances.

COUNT I
ASSAULT & BATTERY UNDER MISSOURI LAW AGAINST SHAPLEIGH

56. Defendant David Shapleigh incorporates by reference his responses to the allegations contained within paragraphs 1 through 55.

57. This Defendant denies the allegations contained in paragraph 57.

58. This Defendant denies the allegations contained in paragraph 58.

59. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

60. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

WHEREFORE, this Defendant, having fully answered Count I of Plaintiff's First Amended Complaint, requests it be dismissed, together with his costs herein expended, attorney's fees, and for any further relief this Honorable Court deems just and proper under the circumstances.

COUNT II
VIOLATION OF 42 USC 1983 AGAINST SHAPLEIGH

61. Defendant David Shapleigh incorporates by reference his responses to the allegations contained within paragraphs 1 through 60.

62. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

63. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

64. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

65. This Defendant does not possess sufficient information to form a proper response as to the allegations contained in this paragraph, and therefore, this Defendant denies said allegations and holds Plaintiff to strict proof thereof.

66. This allegation states a conclusion of law, and therefore, this Defendant denies said allegations.

WHEREFORE, this Defendant, having fully answered Count II of Plaintiff's First Amended Complaint, requests it be dismissed, together with his costs herein expended, attorney's fees, and for any further relief this Honorable Court deems just and proper under the circumstances.

COUNT III
VIOLATION OF 42 USC 1983 AGAINST KSD

67-85. The allegations contained within Count III are not directed to this Defendant. To the extent that the allegations contained within Count III could be construed to implicate this Defendant, they are hereby specifically denied and Defendant holds Plaintiff to strict proof thereof.

COUNT IV
VIOLATION OF TITLE IX AGAINST KSD

86-95. The allegations contained within Count IV are not directed to this Defendant. To the extent that the allegations contained within Count IV could be construed to implicate this Defendant, they are hereby specifically denied and Defendant holds Plaintiff to strict proof thereof.

AFFIRMATIVE DEFENSES

For further Answer and in Affirmative Defense, Defendant David Shapleigh states the following:

1. The Plaintiff's First Amended Complaint fails to state a claim upon which relief may be granted and should be dismissed, pursuant to Federal Rule of Civil Procedure 12 (b)(6).
2. Plaintiff's cause of action should be dismissed as it is barred by the Statute of Limitations.
3. Plaintiff has failed to exhaust any and all administrative remedies.
4. Any injury or damage, was the direct and proximate result of the negligence, carelessness, and/or intentional conduct of others, including the conduct of Plaintiff, and there is no proximate or direct relationship between the conduct of this Defendant and any injury or damage allegedly sustained by the Plaintiff.
5. Plaintiff was the age of majority and consented to any contact with the Defendant, if any, and thus her claims are barred and should be dismissed.
6. Defendant demands a trial by a jury of 12.

WHEREFORE, having fully answered Plaintiff's First Amended Complaint, Defendant respectfully requests that this Court dismiss this action with prejudice and assess costs against the Plaintiff as well as reasonable attorney's fees, together with any further relief this Court deems just and proper under the circumstances.

Respectfully submitted,

FRANK, JUENGEL & RADEFELD,
ATTORNEYS AT LAW, P.C.

By /s/Matthew A. Radefeld
MATTHEW A. RADEFELD (#52288MO)
Attorney for Defendant Shapleigh
7710 Carondelet Ave., Suite 350
Clayton, Missouri 63105
(314) 725-7777

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following.

Grant C. Boyd
Attorney for Plaintiff

/s/Matthew A. Radefeld
MATTHEW A. RADEFELD